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SUBJECT: HAITIAN JUDICIAL REFORM CONTINUES

REF: PAP 2329

Classified By: CDA Timothy M. Carney, REASONS 1.5(B) AND (D).

11. (C) Summary: Philippe Lamarche, head of the USAID-funded program with the National Center for State Courts (NCSC), briefed emboffs on October 3 on recent achievements within the Ministry of Justice. A technical advisor from NCSC in September had conducted an observation mission of the ministry's pretrial detention reduction efforts and confirmed the initial progress made in reducing case backlogs (reftel).

Lamarche further highlighted the completion of several decrees, the Justice Ministers continued commitment to the reform process, and the increasingly positive role of civil society groups. State Prosecutor (Commissaire de Gouvernement) for Port-au-Prince Daniel Audain resigned on September 14, reportedly under pressure from Minister Dorleans to increase his caseload productivity. Post will continue to monitor justice reform efforts, with a view to ensure the transition to the new elected government in February does not undermine the process. End Summary.

NCSC Initiatives with the MOJ

2.(U) In a recent meeting with emboffs, Philippe Lamarche presented NCSC-supported reform efforts with the MOJ. The Center assisted the Ministry in drafting decrees on judicial independence, judicial council, the judge's school, re-organization of the Ministry, a codified judicial fee scale, and a new salary scale for judges. NCSC has also assisted the Ministry in building its institutional capacity.

Lamarche highlighted the resulting independence of the Supreme Court, noting that the Court will have administrative autonomy for the first time in its existence. Lamarche recalled Minister Dorleans' desire to clear half of the backlog of cases of pretrial detainees (750 cases) by December 31. To help with that effort, an NCSC diagnostic team will conduct a mission in Haiti in the coming weeks. The team plans to analyze the pretrial detention issue and develop a strategy, identifying the problems areas and a solution for the Ministry to adopt to rectify the backlog quickly. Later, the team will diagnose the entire judicial system and develop a long-term strategy for implementation.

13. (C) Lamarche remarked on two key ingredients for the success of judicial reform in Haiti: a) willingness on the part of the government, manifested in the high degree of cooperation and capability of Justice Minister Dorleans, and b) emergence of the role of civil society actors, such as women judges associations and young lawyers groups who want to play an active role in the reform process. NCSC will develop an advocacy training program for members of civil society to train them on how to effectively advocate for change.

NSCS Praises Additional Reforms

14. (U) NCSC/Canada technical advisor Jay Carver conducted an observation mission to Haiti in September. Carver noted the most striking change since his last visit in April 2005 was the leadership provided by Minister Dorleans and highlighted Dorleans' public commitment to reducing pretrial detention, evidenced by the weekly press conferences. Carver pointed to the Minister's September 26 announcement of additional measures to maintain the momentum of reform. These measures include:

- continuation of special hearings through the October judicial holidays;
- expansion of the hearings to courts and prisons in additional provinces;
- organization of extraordinary jury sessions in December to fight the backlog of blood crime cases;
- establishment of community watchdog committees to recommend improvements in the operations of three pilot courts;
- verification that every detainee has a judicial file and a case registered in court;
- establishment of a first instance annex in five remote

regions where transport of detainees to regional courts is difficult.

Carver stressed the continued need for international community support for the reform process but stressed that long term sustainability is best achieved when Haitian officials arrive at their own solutions within their unique "legal culture."

New State Prosecutor for Port-au-Prince

15. (C) Former State Prosecutor for Port-au-Prince Daniel Audain submitted his letter of resignation on September 14. Audain stated that he refused to take orders from Minister Dorleans' Chief of Cabinet Carlos Hercule. Hercule claimed he was assisting the Minister to increase productivity in the State Prosecutor's office. Lamarche speculated that his resignation probably had more to do with a personality conflict between Hercule and Audain (Comment: Poloff learned later that Audain had been vocal about a conflict of interest regarding Hercule's position in the Ministry and his role in representing some of detainees. Audain's resignation did not cause much stir in the legal community as he was not widely viewed as a proactive prosecutor. End Comment.) Alce Emame, a young jurist who was previously justice of the peace in Cite Soleil before becoming Audain's deputy in August, replaced Audain.

16. (C) Comment: While Dorleans has managed to stimulate an impressive reform effort within his ministry, he tends to approach issues from a narrow, legalistic focus. To move judicial reform forward he will need to hone his political as well as his judicial and administrative skills. a cabinet that has otherwise failed to meet expectations. Lamarche told us that although the impact of the reforms are not immediately apparent, they provide a foundation for critical long-term reform. Post will work to ensure that the new government that takes power in February preserves the progress Dorleans has made.
CARNEY